

## HOUSE BILL NO. 369.

EXECUTIVE OFFICE,  
STATE OF TEXAS.

Austin, April 4, 1903.

*To the Secretary of State:*

I transmit herewith House bill No. 369, entitled "An Act defining unlawful insurance business, and fixing the punishment of persons engaged therein or connected therewith, and providing for examination by the Insurance Commissioner of the business of insurance companies, associations or societies."

I disapprove this bill, and submit the following reasons for my action:

The first provision of Section 1 of the act defining "an unlawful insurance business" is unobjectionable, but amounts in legal effect to no more than a statement of what the law is and will continue to be without the enactment of this statute.

If the act had gone no further than to declare its misdemeanor punishable by fine and imprisonment for the officers of an insurance company, who are entrusted with the control of its business and responsible for the legal conduct thereof, to act or continue to act for such company engaged in such unlawful business, I probably would not have felt it my duty to interpose any objection to the legislative will, as declared in the act.

But the act goes much further. It is familiar knowledge that insurance covers now nearly the entire field of business, and is carried on, largely, through the instrumentality of an army of agents none of whom have any control over the conduct of the business, in so far as it is regulated by the express requirements of the statutes of the State. These requirements are very numerous, covering every detail of the business from the date of the organization of the company.

This act imposes upon every agent of the company the burden of keeping himself informed, at all times, as to whether all of these various requirements of the statutes have been complied with by his company.

Should there occur any failure on this point, to comply with any of these express requirements, it would be the duty of the agent to at once cease to act for the company. His acting or continuing to act as agent for the company is made a misdemeanor, punishable by fine and imprisonment.

It will thus be seen that the local agents of any insurance company may be subjected to a criminal prosecution, convicted, fined and imprisoned without

any knowledge on their part that they have committed any offense against the law. They may be caused to make vicarious atonement for the sins of others, over whom they exercise no control and of whose delinquencies they have no knowledge. This is contrary to the whole spirit of our criminal law, and to an enlightened sense of justice. I think it no answer to this objection that no agent would be convicted without showing a knowledge on his part that the circumstances existed to make his act a crime.

The act in question makes him legally guilty and legally subject to conviction without such knowledge or any reasonable means of obtaining it, and in my judgment, should not become a law.

S. W. T. LANHAM,  
Governor.